

Introduction

The independent claims recite a circuit configured to control rotation of an optical disk by changing a rotation frequency thereof. In contrast, the Yoshimoto patent is not understood to disclose the manner in which the optical disk 10 is controlled.¹ And the elements of this patent cited by the Office Action to show this feature, elements 46 and 72, merely control the optical head portion 16. They do not control the disk. For this reason, the Office Action argues that the claimed disk rotation control is inherent, because of the existence of a rotatable optical disk 10, a linear motor 46 for an optical head 12, and a frequency-varying tracking signal. But the Office Action never establishes that the claimed rotation-frequency control circuit *is necessarily present* as a result of the existence of the disk 10, the optical-head linear motor 46, and a frequency-varying tracking signal, which is the test for inherency under MPEP § 2112. Therefore, the Office has not satisfied its burden of proof to reject the independent claims for anticipation.

^{1/}(“An optical disk medium 10, shown partially in FIG. 1, is rotated by a suitable motor drive system (not shown)”)(column 5, lines 52 and 53).